IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 24129 of 2004

Between:

Keshavulu S/o.Laskar Naik,

Hindu, aged 53 years,
ADC/Controller (E-48224) Wanaparthy Bus Depot
Mahabubnagar District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC Nagarkurnool Bus Depot,

Mahabubnagar District.
2 The Divisional Manager, APSRTC, Nagarkurnool Division,

Mahabubnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring that the action of the respondent No1 in imposing the punishment of postponing the petitioner's annual increment for a period of two years which shall not have effect on petitioners further increments as bad, arbitrary, illegal, unjust and unreasonable and against the judgments of this Hon'ble Court and apex court by setting aside the final order Proc.No.3/1(2)/ 2002 WNP dt.18.5.2002 and consequential order dt.30.6.2004 of R2 herein and consequently direct the respondents to add the increments which were postponed.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondents: MR.P.VINAYAKA SWAMY,SC FOR APSRTC

The Court made the following:

ORDER:

For the absence of the petitioner for eight days, after calling for explanation, the disciplinary authority passed an order withholding of petitioner's annual increment for a period of two years, which shall not have any effect on the petitioner's future increments, vide proceedings dated 18.05.2002. Challenging the same, the writ petitioner filed an appeal before the 2nd respondent. On the sole ground that the appeal is filed after limitation, the appeal was rejected. Challenging the same, the present writ petition is filed.

The learned counsel for the petitioner contended that the absence of the petitioner is not willful or wanton, because of ill health, he did not inform the concerned authority in time, and therefore, the appeal filed by the petitioner may be
re-considered, after condoning the delay, on merits.

On the other hand, the learned standing counsel appearing for the respondents contended that as the appeal is not filed within time, there is no need to consider the appeal on merits and hence the appeal deserves to be dismissed as no grounds.

For the absence of eight days, without any intimation, the punishment has been imposed on the petitioner. The disciplinary authority passed orders on 18.06.2002, but the petitioner has not filed any appeal within time before the
2nd respondent. After lapse of some time, the writ petitioner filed an appeal before the 2nd respondent, but the same was dismissed on 30.06.2004 on the sole ground that it was not filed within time. Without considering the explanation for the delay, the 1st respondent passed the impugned order stating that the appeal preferred by the petitioner is not entertained, as it is time barred.

Whether delay has been explained by the petitioner or not has to be taken into consideration by the 2nd respondent. Therefore, the order under challenge is set aside and the

2nd respondent is directed to pass appropriate orders on merits, on the appeal preferred by the petitioner, after condoning the delay if explained.

The Writ Petition is, accordingly, disposed of. No order as to costs.

dsr

ASSISTANT REGISTRAR

To:

1. The Depot Manager, APSRTC,

Nagarkurnool Bus Depot,

Mahabubnagar District

2. The Divisional Manager, APSRTC,

Nagarkurnool Division,

Mahabubnagar District

3. Two CD copies.